IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.370 OF 2006
ALONGWITH
CRIMINAL APPLICATION NO.193 OF 2006

Shri Popat Shrirang Kamble .. Appellant

Vs.

Sou. Jyoti Popat Kamble & Ors. .. Respondents

Mr.M.A.Choudhari for the appellan

Mr.A.G.Toraskar for respondent no.1

Mr.Y.M.Nakhawa, A.P.P. for the State

CORAM : J.N.PATEL &
A.A.SAYED, JJ.

DATED : 20TH SEPTEMBER, 2007

P.C.:

1. Heard.

2. This Revision Application has been filed impugning the judgment and order of the Family Court dated 01.03.05 wherein the Family Court allowed the petition for maintenance and directed the respondent husband to pay a sum of Rs.2000/- per month to the petitioner wife towards

maintenance allowance since the day of presentation of the petition.

3. The main ground of challenge in this Criminal Revision Application filed by the applicant husband is that the Family Court has failed to take into consideration that the applicant has no source of income and he is only assisting his mother who is a vegetable vendor.

4. The fact that the respondent is his wife and presently not residing with him is not disputed.

5. Further, the applicant has not paid any maintenance to the respondent wife, except for depositing a sum of Rs.3000/- towards litigation expenses. This revision application was filed only when the wife sought to execute the impugned order.

6. In the Family Court, evidence was led by the parties wherein the wife was able to establish that she has been driven away from the house and treated with cruelty and that the applicant husband

has sufficient means to maintain her and refused and neglected to provide maintenance for her. In her evidence, she has stated that his income is Rs.200 to Rs.300 per day by trading of onion and potato. Against this, except for denial, the applicant husband has not placed on record anything to show that he has no source of income.

7. The learned counsel for the applicant submitted that the parties are negotiating to settle the matter. To this, the learned counsel for the respondent wife submits that if the matter is settled, it can be done at any stage. Admittedly, there is no other matrimonial disputes pending between the parties except for the wife's claim for maintenance.

8. The Family Court after taking into consideration the evidence laid before it, has come to a finding that a sum of Rs.2000/- per month would be sufficient towards maintenance of the wife who is entitled for the same.

9. In our view, a sum of Rs.2000/- per month

is a meagre amount and it would only meet the bare necessities of life and the contention of the applicant husband that he is only assisting his mother in the vegetable business cannot be accepted, in view of the evidence of the wife that he is trading in onion and potato and making a sum of Rs.200 to Rs.300 per day. In absence of any evidence to the contrary, there is no reason to disbelieve the applicant wife.

10. Therefore, we do not find that the impugned judgment and order suffers from any impropriety or illegality so as to interfere in the Revision Application. Revision Application is therefore, dismissed with costs. In view thereof, the Criminal Application No.193 of 2006 also does not survive. The same is also dismissed as infructuous.

(J.N. PATEL, J)

(A.A. SAYED, J)